

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

BROTHERHOOD MUTUAL)
INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
KOOL NITES LIMOUSINE, INC.,)
)
Defendant.)

Case No. 05-0303-CV-W-ODS

ORDER AND OPINION GRANTING PLAINTIFF'S MOTION TO REMAND

Plaintiff initiated this suit in Illinois state court on January 11, 2005. There were originally two defendants, and both were served by the end of January. In April, Defendant removed the case to this Court. Within thirty days Plaintiff filed a Motion to Remand (Doc. # 3), which is now granted.

There are several problems with Defendant's attempt to remove the case to this Court; the Court will cite only two, either of which independently justifies remanding the case. First, a case may be removed only to the "the district court of the United States for the district and division within which such action is pending" 28 U.S.C. § 1446(a). Consequently, this case cannot be removed from Illinois state court to the District Court for the Western District of Missouri. Second, a Notice of Removal must be filed within thirty days of service. *Id.* § 1446(b); see also *Murphy Bros, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999). The Notice of Removal was not timely filed.

For these reasons, the case is remanded to the Circuit Court of the Twentieth Judicial Circuit, Washington County, Illinois.

IT IS SO ORDERED.

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT

DATE: June 23, 2005